

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LAWRENCE CUSHNIE, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

HEARTLAND AUTOMOTIVE SERVICES,
INC., JIFFY LUBE INTERNATIONAL, INC.,
and TEXTMARKS, INC.,

Defendants.

No. C11-753 RSL

**STIPULATION AND [Proposed]
ORDER EXTENDING TIME TO
RESPOND TO COMPLAINT AND
AMENDING ORDER REGARDING
INITIAL DISCLOSURES, JOINT
STATUS REPORT, AND EARLY
SETTLEMENT**

NOTE ON MOTION CALENDAR:
Tuesday, July 26, 2011

Plaintiff Lawrence Cushnie, individually and on behalf of all others similarly situated, and defendants Jiffy Lube International, Inc. and Heartland Automotive Services, Inc. (all collectively referred to herein as the "Parties"), by and through their counsel of record, hereby stipulate and jointly move for an order extending the time for all defendants in the action to respond to the complaint as set forth below:

WHEREAS, on April 22, 2011, plaintiff filed a class action complaint against defendants Jiffy Lube International, Inc., Heartland Automotive Services, Inc., and TextMarks, Inc. alleging violations of the Telecommunications Consumer Protection Act of 1991;

WHEREAS, defendant Jiffy Lube International, Inc. was served with the complaint and summons on May 6, 2011;

WHEREAS, defendant Heartland Automotive Services, Inc. was served with the complaint and summons on May 9, 2011;

1 WHEREAS, pursuant to Federal Rule of Civil Procedure 12(a)(1)(A), defendant Jiffy
2 Lube International, Inc.'s response to the complaint was due on May 27, 2011 and defendant
3 Heartland Automotive Services, Inc.'s response to the complaint was due on May 31, 2011;

4 WHEREAS, this case is one of six (6) putative class actions that is the subject of a motion
5 to transfer and consolidate filed with the Judicial Panel on Multidistrict Litigation ("JPML") by
6 plaintiff in this case and others in similar cases on May 12, 2011;

7 WHEREAS, in light of the pending motion to transfer and consolidate, plaintiff agreed, in
8 writing, to extend the time for defendants to respond to the complaint until July 27, 2011;

9 WHEREAS, the JPML has scheduled a hearing on the motion to transfer and consolidate
10 for July 28, 2011 (*see* MDL No. 2261, Dkt. 20);

11 WHEREAS, in the interest of justice and in an effort to enhance judicial efficiency and
12 preserve resources, the plaintiff desires to grant the defendants in this action additional time in
13 which to respond to the complaint;

14 WHEREAS, this extension is not sought for any bad faith reason or for purposes of
15 unnecessarily delaying this action;

16 WHEREAS, the parties anticipate that a further extension may be sought, and that this
17 extension is without prejudice to further requests in view of potential Multi-District Litigation
18 treatment;

19 WHEREAS this Court, pursuant to its Order Regarding Initial Disclosures, Joint Status
20 Report, and Early Settlement issued July 12, 2011, set the following deadlines:

21 Fed. R. Civ. P. 26(f) Conference: August 9, 2011

22 Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1): August 16, 2011

23 Joint Status Report and Discovery Plan: August 23, 2011

24 WHEREAS, pursuant to Local Rule CR 10(g), the Parties seek to continue each of the
25 above deadlines for thirty (30) days, so as to afford the JPML adequate time to issue its order on
26 the pending motion to transfer and consolidate.

27 WHEREAS, defendants Jiffy Lube and Heartland Automotive represent that defendant

TextMarks does not object to the relief sought herein given the pending MDL proceeding.

NOW, THEREFORE, THE PARTIES STIPULATE as follows:

- (1) The time in which all defendants shall respond to the complaint in this action shall be continued until August 29, 2011;
- (2) The Rule 26(f) conference shall be continued until September 13, 2011;
- (3) The parties shall file their initial disclosures pursuant to Rule 26(a)(1) no later than September 20, 2011; and
- (4) The parties shall file a joint status report and discovery plan, pursuant to Rule 26(f) and Local Rule CR 16, no later than September 23, 2011.
- (5) The parties request that the Court enter the order below.

Dated July 26, 2011.

Respectfully submitted,

Merrick, Hofstedt & Lindsey, P.S.

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Counsel for Defendants Jiffy Lube Int'l, Inc.
and Heartland Automotive Services, Inc.

Counsel for Plaintiff

* * *

ORDER

SO ORDERED.

Dated this ____ day of July, 2011.

THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

1 Presented by:
2 Law Offices of Clifford A. Cantor, P.C.
3 By: s/ Cliff Cantor, WSBA # 17893
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7 Certificate of Service

8 I certify that I caused the foregoing to be filed with the Clerk of the Court via the
9 CM/ECF system, which will cause notice of filing to be sent to all counsel of record.

10 s/ Cliff Cantor
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